

Miller, Amy

From: Miller, Amy
Sent: Friday, April 11, 2014 8:22 PM
To: Brian Johnson
Subject: Fw: Exide -EPA clean air act info request
Attachments: 114 Exide Technologies Inc 1211090001.pdf

Sent from my BlackBerry 10 smartphone on the Verizon Wireless 4G LTE network.

From: Jones, Joel E. <Jones.Joel@epa.gov>
Sent: Tuesday, April 1, 2014 5:12 PM
To: Michael Jordan
Cc: Salazar, Matt; Johnson, Kathleen; Miller, Amy; McDaniel, Doug
Subject: Re: Exide Technologies Battery Recycling Plant, Vernon CA

Hi Mike, please see also our Clean Air Act section 114 information request letter to EXIDE dated 12/11/09. The case developer at the time is no longer working in the Enforcement Division, but we're reviewing her files to see if EXIDE's response provides any useful compliance information. We'll follow up with you with more details.

- Joel

Joel Jones, Assistant Director
Enforcement Division
Air, Waste & Toxics (Enf -2)
U.S. EPA Region 9
(415)972-3449
Jones.Joel@epa.gov



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

**75 Hawthorne Street
San Francisco, CA 94105-3901**

DEC 11 2009

**CERTIFIED MAIL NO.: 7003 3110 0006 2000 8564
RETURN RECEIPT REQUESTED**

Ms. Jen Copeland
Plant Manager
Exide Technologies, Inc.
2700 South Indiana Street
Vernon, CA 90058

November 30, 2009

Dear Ms. Copeland:

The United States Environmental Protection Agency ("EPA") hereby requires Exide Technologies, Inc. ("Exide") to provide certain information to determine the Clean Air Act ("CAA" or the "Act") compliance status of Exide's secondary lead processing facility (the "Facility") located in Vernon, California. Specifically, this information request is necessary to evaluate Exide's compliance with 40 C.F.R. Part 63, Subpart X, "National Emissions Standards for Hazardous Air Pollutants from Secondary Lead Smelting" and 40 C.F.R. Part 60, Subpart L, "Standards of Performance for Secondary Lead Smelters." EPA may also use this information to determine Exide's compliance with other requirements of the CAA and in administrative, civil, and criminal proceedings.

Pursuant to section 114(a) of the CAA, 42 U.S.C. § 7414(a), the Administrator of EPA is authorized to require any person who owns and/or operates an emission source to establish and maintain records, make reports and provide such other information as he may reasonably require for the purposes of determining whether such person is in violation of any provision of the Act. In order for EPA to determine whether a violation has occurred, Exide is hereby required, pursuant to section 114(a) of the CAA, to provide responses to the Information Request in Enclosure 1 regarding the Facility. All information submitted in response to this request must be certified as true, correct, accurate, and complete by an individual with sufficient knowledge and authority to make such representations on behalf of the Facility.

Failure to provide the required information may result in either the issuance of an Administrative Order pursuant to section 113(a) of the Act, 42 U.S.C. § 7413(a), or the initiation of a civil action pursuant to section 113(b) of the Act, 42 U.S.C. § 7413(b). In addition, section 113(c)(2) of the Act provides that "[a]ny person who knowingly makes any false material statement, representation, or certification in, or omits material

information from . . . any . . . document required pursuant to this Act . . . shall upon conviction be punished by a fine pursuant to Title 18 of the United States Code, or by imprisonment for not more than two (2) years, or both." 42 U.S.C. § 7413(c)(2).

Exide is entitled to assert a business confidentiality claim, covering all or part of the information that this letter requires it to provide, except that no such claim can be made with respect to emission data as defined at 40 C.F.R. § 2.301(a)(2). Any business confidentiality claim should be made in accordance with the procedures described at 40 C.F.R. § 2.203(b). EPA will provide the public with information subject to a claim of business confidentiality only in accordance with the procedures set forth at 40 C.F.R. Part 2, Subpart B. EPA may provide the public with any information not subject to such a claim without further notice.

If Exide seeks to withhold any documents based on a claim of attorney-client communications privilege or the attorney work product doctrine in its response to this information request, it must provide a privilege log for each document withheld pursuant to such privileges that contains the following information:

1. The date, author(s), every individual to whom the document was originally sent, every individual who subsequently acquired the document, the purpose for which the document was sent to or obtained by those individuals, and the employment titles of the authors and recipients;
2. The subject matter of the document;
3. The privilege claimed for the document and all facts supporting the claim of privilege;
4. The primary purpose(s), including any business purposes, for which the document was made;
5. The question(s) in EPA's information request that the document is responsive to; and
6. All facts contained in the documents that are responsive to any question in EPA's information request.

This information request is not subject to review by the Office of Management and Budget ("OMB") under the Paperwork Reduction Act. 44 U.S.C. §§ 3501, *et seq.* This request is not a "collection of information" under the Paperwork Reduction Act because it is directed at fewer than ten persons and is made pursuant to an administrative investigation against specific individuals or entities. 44 U.S.C. §§ 3502(3) and 3518(c)(1); see also 5 C.F.R. §§ 1320.3(c) and 1320.4.

EPA requires Exide to submit its response to questions in Enclosure I no later than thirty (30) calendar days after receipt of this letter. If Exide anticipates that it will not be able to respond fully to this request within the time period specified, Exide must submit a sworn declaration by a responsible corporate official within ten (10) calendar days after receipt of this letter specifying what information will be provided by the allotted deadline, describing what efforts have been and are being taken to obtain the remaining responsive information, and providing a detailed schedule of when such other

responsive information will be provided. Upon receipt and based upon such declaration, EPA may extend the time in which Exide has to respond to this information request.

Please contact EPA if Exide determines that a full response to a particular request for information would require the submission of an extremely large number of documents. Based upon such notification, EPA may modify the scope of the documents required to be produced.

Exide's response must be signed by a responsible corporate official of Exide. Please submit Exide's response to this request to:

Deborah Jordan
Director, Air Division
U.S. Environmental Protection Agency
75 Hawthorne Street
San Francisco, CA 94105
Attn: Margaret Waldon (AIR-5)

Finally, EPA requires that Exide's response apply the Instructions in Enclosure 2 and the Definitions in Enclosure 3. EPA requires that Exide report any changes or revisions to the information supplied within seven (7) days after the change or revision is made. This requirement to provide EPA with changed or revised information shall remain in effect until EPA provides Exide with written notice of its termination.

If you have any questions regarding this information request, please contact Margaret Waldon at (415) 972-3987 or have Exide's attorney contact Erica Maharg at (415) 972-3943.

Sincerely,



Deborah Jordan
Director, Air Division

Enclosures

cc: Barry Wallerstein, South Coast Air Quality Management District
James Ryden, California Air Resources Board

ENCLOSURE 1

INFORMATION REQUEST

1. Provide schematic diagrams of the Facility that describes each emission unit and process step (whether used for production, research or some other purpose), including, but not limited to, raw materials processing area, crushers, dryers, furnaces, etc. along with the dates of installation and initial start up of each unit.
2. Provide a diagram showing the emission units vented to control device(s) and provide the associated air flow rates in standard cubic feet per minute for each of those units.
3. Please submit a copy of the following notifications to EPA and proof of receipt by EPA:
 - a. Each Initial Notification prepared by Exide required by 40 C.F.R. § 63.549(a).
 - b. Each notification, required by 40 C.F.R. § 63.549(b), seeking review and approval of the fugitive dust control standard operating procedures pursuant to 40 C.F.R. § 63.545(a) and standard operating procedures manual for baghouses pursuant to 40 C.F.R. § 63.548(a).
4. Please submit a copy of each record prepared by Exide as required by 40 C.F.R. § 63.550(a).
5. Please submit a copy of each report prepared by Exide as required by 40 C.F.R. § 63.550(b) and § 63.550(c).
6. Please state whether Exide has a standard operating procedures manual for fugitive dust sources, as required by 40 C.F.R. § 63.545(a).
 - a. If Exide's response is affirmative, please identify the author(s) of such plan and the date that the plan was finalized.
 - b. If Exide's response is affirmative, please submit all versions of such plans under which the Facility has operated.
7. Please state whether Exide has a standard operating procedures manual for baghouses, as required by 40 C.F.R. § 63.548(a).
 - a. If Exide's response is affirmative, please identify the author(s) of such plan and the date that the plan was finalized.
 - b. If Exide's response is affirmative, please submit all versions of such plans under which the Facility has operated.
8. Please state whether Exide owns or operates any of the fugitive emission sources listed in 40 C.F.R. § 63.544 at its City of Vernon location.

9. For the fugitive emission sources listed in response to Question 8 please state whether each emission source is equipped with an enclosure hood or located within a total enclosure, as defined at 40 C.F.R. § 63.542.
 - a. If the fugitive emission source is equipped with an enclosure hood, please specify the face velocity of each enclosure hood in either meter per second or feet per second.
 - b. If the fugitive emission source is located within a total enclosure, as defined, please state how the total enclosure meets the requirements of 40 C.F.R. §§ 265.1101(a)(1), (a)(2)(i), and (c)(1)(i).
10. For each fugitive emission source listed in response to Question 8 please identify the control device to which the gases from each fugitive emission source are conveyed.
11. For each control device listed in response to Question 8, please provide copies of the annual performance tests required by 40 C.F.R. § 63.544(e) performed by Exide or a third party on behalf of Exide.
12. Provide a copy of all performance tests required by 40 C.F.R. § 63.543(h) and 40 C.F.R. § 60.8 that were performed by Exide or a third party on behalf of Exide.
13. Submit a copy of each Title V annual compliance certification, each semi-annual monitoring certification, and all monthly monitoring reports submitted to South Coast Air Quality Management District ("SCAQMD") and/or EPA since August 2001.
14. Provide copies of all variances and Notices of Violations ("NOV") issued by SCAQMD to the Facility since 2001. Include a copy of the variance application(s), staff reports and all other reports submitted to the SCAQMD to track compliance with the variance and the actual variance issued by SCAQMD. Also include a copy of any document(s) associated with the NOVs including, but not limited to, the SCAQMD inspection reports, Exide's response to the NOV, and settlement agreements.
15. Provide a copy of all SCAQMD Permits to Operate and Authority to Construct permits for the Facility including the Title V permit.
16. From January 1, 2001 to present, provide daily and monthly emissions in pounds for each emission unit at the Facility. Include all supporting calculations, log sheets, CEMS data, and measurements used to determine the emissions. If spreadsheets are used to calculate emissions, provide the formula for each column.

ENCLOSURE 2

INSTRUCTIONS

1. A separate response must be made to each of the questions set forth in this Information Request.
2. Precede each answer with the number of the Information Request to which it corresponds.
3. In answering each Information Request, identify all contributing sources of information.
4. If information not known or not available to the Respondent as of the date of submission of its response should later become known or available, Respondent must supplement its response to EPA. Moreover, should the Respondent find at any time after the submission of its response that any portion of the submitted information is false or misrepresents the truth, respondent must notify EPA as soon as possible.
5. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the question to which it responds.
6. You must respond to the Information Request on the basis of all information and documents in your possession, custody or control or in the possession, custody or control of your former or current employees, agents, servants, contractors or attorneys. Furnish such information as is available to you, regardless of whether or not it is based on personal knowledge, and regardless of source.
7. If any documents requested herein have been transferred voluntarily or involuntarily to others or have been otherwise disposed of, identify each such document, identify the person to whom it was transferred, describe the circumstances surrounding such transfer or other disposition, and state the date or approximate date of such transfer or other disposition.
8. The EPA regulations concerning confidentiality and treatment of business information are contained in 40 C.F.R. Part 2, Subpart B. Information may not be withheld from the Administrator or his authorized representative because it is viewed as confidential. However, when requested to do so, the Administrator is required to consider information to be confidential and to treat it accordingly, if disclosure would divulge methods or processes entitled to protection as trade secrets except that emissions data (as defined in 40 C.F.R. §2.301(f)) may not be considered by EPA as confidential. The regulations provide that one may assert a business confidentiality claim covering part or all of any trade secret information furnished to EPA at the time such information is provided to the Agency. The manner of asserting such claims is specified in 40 C.F.R. §2.203(b). In the event

that a request is made for release of information covered by such claim of confidentiality or the Agency otherwise decides to make a determination as to whether or not such information is entitled to such confidential treatment, notice will be provided to the claimant prior to any release of the information. However, if no claim of confidentiality is made when information is furnished to EPA, any information submitted to the Agency may be made available to the public without prior notice.

9. To the extent they are so included, the terms in this information request shall be governed by the definitions set forth in the attached list of definitions.
10. Defined terms embrace not only the form of the word actually defined but also all variants of that word that can be made by adding and/or changing suffixes; thus, e.g., the definition given below for the word "Identify" also applies to the words "identified," "identity," "identifying," "identification," etc. Words used in the singular also shall be taken to mean and include the plural. Words used in the plural also shall be taken to mean and include the singular. The words "and" and "or" shall be construed conjunctively or disjunctively as necessary to make the request inclusive rather than exclusive.
11. If you object to a particular information request as vague or burdensome, you are requested to answer all interrogatories to the best of its ability and in good faith, preserving any bona fide objections if necessary. Because EPA may not know in advance which questions are overly vague or burdensome to you, EPA requests that you attempt to obtain clarification or delimiting of EPA's requests if circumstances otherwise prevent a full response to the question as written.

ENCLOSURE 3

DEFINITIONS

For the purpose of the Instructions and Requests for Information set forth herein, the following definitions shall apply:

1. The term "you" or "Respondent" shall mean the addressee of the Request, the addressee's officers, managers, employees, contractors, trustees, predecessors, successors, assigns, subsidiaries, and agents.
2. The term "person" as used herein includes, in the plural as well as the singular, any natural person, firm, contractor, unincorporated association, partnership, corporation, trust or governmental entity, unless the context indicates otherwise.
3. The "facility" shall mean and include the secondary lead processing facility owned and operated by Exide Technologies, Inc.
4. The terms "furnish", "describe", or "indicate" shall mean turning over to EPA either original or duplicate copies of the requested information in the possession, custody, or control of the Respondent. Where specific information has not been memorialized in any document but is nonetheless responsive to an information request, you must respond to the request with a written response. If such requested information is not in your possession, custody, or control then indicate where such information or documents may be obtained.
5. The term "identify" means, with respect to a natural person, to set forth his full name, present or last known business address, the name of that employer and a description of the job responsibilities of such person.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including a sole proprietorship) to set forth its full name, address, legal form (e.g. corporation, partnership, etc.) organization, if any, and a brief description of its business.
7. The term "identify" means, with respect to a document, to provide its customary business description, its date, its number if any (invoice or purchase order number), the identity of the author, addressor, addressee and/or recipient, and the substance of the subject matter.
8. As used here, "document" and "documents" shall include writings of any kind, formal or informal, whether or not wholly or partially in handwriting (including by the way of illustration and not by way of limitation), any invoice, receipt, endorsement, check, bank draft, cancelled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements, and the like, diary, calendar, desk pad, scrap book, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, report, notice, message, analysis, comparison, graph, chart, interoffice or intraoffice communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc, or disc pack; and any tape or other type of memory generally associated with computers and data processing (together with the

programming instructions and other written material necessary to use such punch card, disc or disc pack, tape or other type of memory and together with printouts of such punch card, disc or disc pack, video tape or other type of memory); including (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like of it, (c) drafts, (d) attachments to or enclosures with any documents and (e) every document referred to in any other document.

9. "And" as well as "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of these Information Requests any information which might otherwise be construed to be outside their scope.
10. "Relate" shall mean constitute, define, concern, embody, reflect, identify, state, refer, deal with, or in any way pertain to.
11. For additional definitions specific to 40 C.F.R. Part 63, Subpart X, please refer to 40 C.F.R. § 63.542.